

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

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HEATHER SMITH, individually and on	:	
behalf of all others similarly situated,	:	
	:	
Plaintiff,	:	Case No. 5:23-cv-00559-D
	:	
v.	:	
	:	
WHALECO INC. d/b/a TEMU,	:	
	:	
Defendant.	:	
-----	X	

**DEFENDANT’S SECOND UNOPPOSED MOTION FOR AN EXTENSION
OF TIME TO FILE A REPLY IN SUPPORT OF
ITS MOTION TO COMPEL ARBITRATION**

Defendant WhaleCo. Inc., d/b/a TEMU (“Defendant”) hereby respectfully submits this **unopposed** motion to extend the deadline for Defendant to file a reply in support of its Motion to Compel Arbitration (“Motion”) by a period of no more than fourteen (14) days, to and including **November 9, 2023**, or however long the Court deems appropriate. In support thereof, Defendant states as follows:

1. Defendant filed its Motion on July 25, 2023. *See* Dkt. 10 and 11.
2. Thereafter, Plaintiff requested and obtained two unopposed extensions of time to file a response in opposition to the Motion. *See* Dkts. 17, 18, 19, 20.
3. On September 28, 2023, Plaintiff filed her response in opposition to the Motion. *See* Dkt. 21.
4. On October 3, 2023, Defendant submitted its first unopposed request to extend its deadline to file a reply in support of the Motion, which the Court granted on

October 5, 2023. *See* Dkts. 22 and 23. As such, Defendant's *current* reply deadline is October 26, 2023. *Id.*

5. On October 18 and 19, 2023, Plaintiff submitted supplemental authority in support of her opposition to the Motion. *See* Dkts. 24 and 26.

6. Defendant has just retained new lead counsel in this matter, who need additional time to file their appearance(s), review Plaintiff's opposition, and prepare a reply in support of the Motion, as well as generally to investigate the case, understand the facts, and confer with Plaintiff's counsel regarding a possible extra-judicial resolution, the latter of which may obviate the need for Defendant to file a reply brief altogether. Defendant's new lead counsel also require additional time to prepare a reply in support of the Motion due to personal and professional scheduling conflicts with the current deadline.

7. As such, Defendant seeks a modest additional extension of fourteen (14) days, to and including **November 9, 2023**, to file a reply in support of the Motion.

8. On October 20, 2023, counsel for Defendant conferred with counsel for Plaintiff by phone and email, who indicated that Plaintiff does not oppose an additional 14 day extension of Defendant's reply deadline. Therefore, this request is unopposed.

9. This request is made in good faith and not for the purposes of delay, and will not prejudice any party. The requested extension will promote judicial and party economy and is in the interest of justice. The requested extension will not impact any other case deadlines, a timely ruling on the Motion, or the timely resolution of this matter.

10. Therefore, there is sufficient good cause for the requested extension, for at least the reasons stated above.

11. By submitting this request, Defendant does not waive any defenses to the Complaint or any rights or privileges available to it under applicable rules and law, including jurisdictional defenses and arbitral rights.

12. Defendant will submit a proposed order contemporaneously herewith.

WHEREFORE, for all the reasons above, Defendant respectfully requests that the Court enter an order extending its deadline to file a reply in support of its Motion to **November 9, 2023**, or however long the Court deems appropriate.

Respectfully submitted,

/s/Robert A. Stines

Robert A. Stines (*pro hac vice*)
SMITH GAMBRELL & RUSSELL LLP
Florida Bar No. 78447
201 N. Franklin Street, Suite 3550
Tampa, Florida 33602
Telephone: (813) 488-2928
Facsimile: (813) 488-2960
Email: rstines@sgrlaw.com

John A. Burkhardt, OBA #1336
SCHAFER HERRING PLLC
7134 S. Yale, Ste. 300
Tulsa, OK 74136
Direct Line: (918) 856-5378
Facsimile: (918) 550-8106
Email: john.burkhardt@schafferherring.com
Attorneys for Defendant, Whaleco Inc., d/b/a Temu

CERTIFICATE OF ELECTRONIC SERVICE AND FILING

This is to certify that on October 20, 2023, I caused the foregoing instrument to be filed with the Clerk of the Court using the ECF System for filing, with electronic service to be made via CM/ECF to all counsel of record. To counsel's knowledge, there are no non-ECF registrants who are counsel in this case.

/s/Robert A. Stines

Robert A. Stines